



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Northern Virginia Regional Office
13901 Crown Court
Woodbridge, VA 22193-1453
(703) 583-3800 fax (703) 583-3801
www.deq.virginia.gov

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Northern Va. Region
Dept. of Env. Quality

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

FOXCROFT SCHOOL

FOR THE

FOXCROFT SCHOOL SEWAGE TREATMENT PLANT

(VPDES Permit No. VA0024112)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a) and (8d) and 10.1-1185 between the State Water Control Board and Foxcroft School, regarding the Foxcroft School Sewage Treatment Plant, for the purpose of resolving certain alleged violations of the State Water Control Law and Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Special Order.
6. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
7. "Permit" means Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0024112.
8. "Regulation" means 9 VAC 25-31-10 et seq., the Virginia Pollutant Discharge Elimination System Permit Regulation.
9. "STP" means the Foxcroft School sewage treatment plant located in Loudoun County.

SECTION C: Finding of Facts and Conclusions of Law

1. Foxcroft School ("Foxcroft") owns and operates the STP which is a 0.075 MGD plant that serves a secondary girl's boarding school that includes dormitories, classrooms, dining and maintenance facilities, as well as residential homes for school faculty and staff. Combined population of students and faculty served by the STP is approximately 300. The STP discharges wastewater into Goose Creek in the Potomac River Basin. The discharges are the subject of the Permit, which was issued on January 20, 2004 and expires on January 19, 2009.
2. The Board has evidence to indicate that Foxcroft may have violated the Regulation and the Permit by: (1) exceeding Permit effluent limits for *E.coli* and Ammonia as Nitrogen ("Ammonia"); (2) failing to operate the treatment works in accordance with the Operations and Maintenance (O&M) Manual; and (3) failing to maintain systems of treatment and control used to achieve compliance. DEQ NVRO issued three warning letters (WL) and two notice of violations (NOV) to Foxcroft for the above-referenced violations as follows: WL No. W2005-10-N-1006 issued October 12, 2005; WL2005-11-N-1002 issued November 10, 2005; WL No. W2005-12-N-1004 issued December 12, 2005; NOV No. W2006-03-N-0003 issued March 10, 2006; and NOV No. W2006-04-N-0003 issued on April 14, 2006.
3. The STP is an approximately 30-year old package plant that uses a dual train extended aeration activated sludge process. As designed and operated until sometime in 2001, forward flow from both clarifiers flowed to a 225,000 gallon polishing tank ("3-day Holding Tank") where effluent was retained for a period of three (3) days prior to Ultra-Violet (UV) disinfection.
4. On September 18, 2002, DEQ staff completed a laboratory and technical inspection of the STP. In the summary report sent to Foxcroft on October 15, 2002, DEQ recommended that the O&M Manual be updated to reflect the current operations scheme, specifically the 3-day Holding Tank being taken off-line in 2001. The report also noted that the UV disinfection system should be repaired so that the two (2) assemblies are capable of functioning independently.

5. In a response letter dated November 15, 2002, Foxcroft stated that staff had begun the process of reinstating the 3-day Holding Tank and that it would be back online no later than February 28, 2003 and, therefore, the O&M Manual would not need to be revised. Foxcroft also asserted that the UV system was repaired and that a full diagnostic evaluation of the system would take place as soon as the manufacturer's representative could schedule a visit.
6. In response to recent alleged *E.coli* violations and Foxcroft's referral to enforcement, DEQ staff inspected the STP on March 28, 2006 and noted two violations that were the subject of the NOV issued on April 14, 2006. The first being that the 3-day Holding Tank was still not, and had never been, put back in service and the second was that the UV system was again not functioning properly because the intensity meters were not operational.
7. A historical file review of Foxcroft's Discharge Monitoring Report ("DMR") submittals show periods of high daily flows during the wet season, which may indicate Infiltration and Inflow (I/I) issues within the collection system. Although these high flows do not exceed the permitted flow levels in the Permit, these high flows are adversely affecting treatment efficiency, in part due to the current design of the STP.
8. Pursuant to the Permit, a once-a-week, 4-hour composite sample is required for BOD, TSS, and Ammonia. Based on the recent high flows, age and design, and current condition of the STP, a 4-hour composite may not be a completely representative sample of the effluent.
9. DEQ staff and Foxcroft representatives met on April 12, 2006 to discuss these compliance issues and options to return to compliance. Foxcroft offered an Action Plan to address the deficiencies in the collection system, operations and maintenance of the STP and with how they manage sludge (i.e. 3-day Holding Tank). After the meeting, and based in part on the Action Plan, DEQ developed Appendix A.
10. Appendix A of this Order requires Foxcroft to: (1) complete an I/I Study; (2) institute an increased monitoring program; (3) if needed, complete a design and feasibility study for installation of a new STP; (4) make minor modifications to the current STP; and (5) put back in service the 3-day Holding Tank or modify the STP to add other process treatment units to consistently meet Permit limits.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§ 62.1-44.15(8a) and (8d) and 10.1-1185, orders the Foxcroft School and the Foxcroft School voluntarily agrees that:

1. Foxcroft School shall perform the actions described in Appendix A of this Consent Order to remedy the alleged violations described above.
2. Foxcroft School shall pay a civil charge of \$3,000 within 30 days of the effective date of the

Consent Order in settlement of the alleged violations cited in this Consent Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Either in the transmittal letter or as a notation on the check, Foxcroft School shall indicate that this payment is submitted pursuant to this Consent Order and shall include the Federal Identification Number for the Foxcroft School.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Foxcroft School, for good cause shown by Foxcroft School, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those alleged violations specifically identified herein and listed above in Section C-2. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Foxcroft School does not admit nor deny, but agrees not to challenge the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Foxcroft School consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Foxcroft School declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Foxcroft School to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the

Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Foxcroft School shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Foxcroft School shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on their part. Foxcroft School shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order.
9. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Regional Director within seventy-two (72) hours of learning of any condition above, which Foxcroft School intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

10. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
11. Any plans, reports, schedules, permits, or specification attached hereto or submitted by Foxcroft School in response to this Order and approved by the Department are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
12. This Order shall become effective upon execution by both the Director or his designee and Foxcroft School. Notwithstanding the foregoing, Foxcroft School agrees to be bound by any compliance date, which precedes the effective date of this Order.


13. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Foxcroft School. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Foxcroft School from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

14. By its signature below, Foxcroft School voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of September 11th, 2006.


Jeffery A. Steers, Regional Director
Department of Environmental Quality
Northern Virginia Regional Office

The Foxcroft School voluntarily agrees to the issuance of this Order.

By: 
Mary Louise Leipheimer
Head of the School
Foxcroft School
Date: 15 May, 2006

Commonwealth of Virginia
City/County of Loudoun

The foregoing document was signed and acknowledged before me this 15th day of

MAY, 2006, by Mary Louise Leipheimer, who is the Head of the School at Foxcroft School, on behalf of the Foxcroft School.


Notary Public

My commission expires: 11/30/2006.

APPENDIX A SCHEDULE OF COMPLIANCE

Foxcroft School shall:

1. By no later than July 1, 2006, replace the bar screen and purchase and install a refrigerated auto-sampler that is setup for flow proportional sampling.
2. By September 30, 2006, provide notification to DEQ that the RAS splitter box has been modified. The modification shall separate the RAS lines from Clarifier #1 and #2 to allow separate return and wasting from each Clarifier.
3. By September 1, 2006, and lasting until February 28, 2007, institute a monitoring program that includes: (1) flow proportional composite samples for BOD, TSS, and Ammonia, 3 days per/wk, Monday – Friday, collected over a 24-hour period; and (2) grab samples for *E.coli* analysis, 3 days per/wk to match the same days as the 24-hour composite end day with sample collection taking place between 8AM-2PM. After February 28, 2007, the monitoring requirements shall be those reflected in the Permit.
4. By no later than July 31, 2006, submit to DEQ for review and approval, an engineering evaluation report of the effectiveness of the complete treatment system, including the UV disinfection system. The evaluation report shall detail whether the 3-day Holding Tank is capable of returning to service and whether this would be beneficial to treatment performance and/or if other process treatment units should be added to improve treatment performance.

If the evaluation shows that the 3-Day Holding Tank should be placed back in-service as originally designed and intended, it must be put back in service by no later than September 1, 2006 to coincide with the start of the new monitoring program described above in Paragraph 3.

5. By no later than August 31, 2006, submit to DEQ for review and approval, a design and feasibility study indicating the viability of the existing STP and an estimate of its useful life for the purposes of meeting Foxcroft's wastewater treatment requirements. The study shall include a cost-effectiveness analysis as to whether implementing the use of the 3-day Holding Tank, and modifying by adding new process unit(s) will be sufficient and will ensure that the STP will consistently meet Permit effluent limits. The study shall also include a construction plan and schedule for the above modifications that upon approval by DEQ shall become an enforceable part of this Order.

Should the study indicate that a new STP is warranted, a construction plan and schedule for the installation shall be submitted to DEQ within one-hundred and eighty (180) days of the study

submittal. Upon approval by DEQ, the construction plan and schedule shall become an enforceable part of this Order

6. By no later than September 30, 2006, submit a completed I/I Study to DEQ for review and approval which contains at a minimum the following components: (1) a map of the school property showing sanitary sewer collection system ("System") locations; (2) a functional description of the System (i.e. gravity, grinder pumps, etc.); (3) what the System is comprised of, age of those materials broken down by section, if applicable and percentage of those materials in use; (4) functional description of the central cafeteria/kitchen operations in relation to the System; and (5) annual budget for the last three years and the next fiscal year for System maintenance. The I/I Study shall also include a cost-effective analysis of potential rehabilitation projects and a System rehabilitation plan and schedule.

Upon approval by DEQ, the System rehabilitation plan and schedule shall become an enforceable part of this Order.

7. Beginning the month after the Order becomes effective, submit quarterly progress reports to NVRO with the Discharge Monitoring Report (DMR) submission and continue to operate the STP in accordance with the O&M manual and the Sludge Management Plan (SMP) in order to ensure that the STP produces the best quality effluent of which it is capable, and in order to minimize any additional exceedences of Permit effluent limits and impacts to water quality that may occur while the plant is being modified.